IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION APPLICATION NO. 209 OF 2004

Balwant Singh Karamsingh Aujla ... Applicant

Versus

Nirmalsingh Karamsingh Aujla ..Respondent

Mr. G.B. Kedia for the Applicant.
Ms. S.V. Sonawane for respondent.

CORAM: **DALVEER BHANDARI, C.J.**
DATE: **OCTOBER 29, 2004**.

P.C.

Heard the learned counsel for the parties.

2. By an order dated 19th August, 2003, Mr. Justice B.N. Naik (Retd.) was appointed as Sole Arbitrator to decide the dispute and differences between the parties herein. Mr.Justice B.N. Naik (Retd.) expressed his inability to act as a sole Arbitrator in the matter as he is known to both the parties. Correspondence ensued between the Advocates of petitioner and respondent to refer the dispute for mediation procedure. Since no response was forthcoming from the respondent, the petitioner has filed this petition under Section 11 of the Arbitration and Reconciliation Act, 1996.

3. Mr. Justice D.R. Dhanuka (Retd.) is requested to accept the arbitration instead of Mr. Justice B.N. Naik (Retd.).

4. The matter regarding appointment of Receiver in respect of the firm's property shall also be placed for consideration before the Arbitrator, who shall pass necessary orders in that regard.

5. Tejasingh Karamsingh Aujla is claiming to be one of the partners of the firm and also claiming the rights in the firm's property. This has been disputed by the petitioner. This dispute also shall be placed for consideration of the Arbitrator and Mr. Tejasingh Aujla would be at liberty to approach the Arbitrator in that regard.

6. In the meantime, the property of the firm shall remain in the possession of the petitioner and the respondent till the Arbitrator takes decision in respect of the appointment of the Receiver.

7. Tejasingh Aujla shall approach the Arbitrator, if he has any claim regarding the possession over the Firm's property.

8. All the points are left open and the parties would be at liberty to raise all the points and contentions before the Arbitrator.

9. With this order, all matters, namely, Arbitration Application No. 209 of 2004, Arbitration Application No. 174 of 2003, Arbitration Petition No. 312 of 2003, Chamber Summons No. 1126 of 2003 in Arbitration Petition No. 312 of 2003 and Chamber Summons No. 1127 of 2003 in Arbitration Application No. 174 of 2003, shall stand disposed of.

CHIEF JUSTICE